

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

RICKY C.,

Claimant,

vs.

WESTSIDE REGIONAL CENTER,

Service Agency.

OAH No. L 2007010859

DECISION

On March 22, 2007, Administrative Law Judge Timothy S. Thomas, Office of Administrative Hearings, heard this matter in Culver City, California.

Martha Thompson, Program Manager, represented the Westside Regional Center (hereinafter WRC or regional center).

Jeffrey and Daneen C. appeared on behalf of their son, Ricky C. (claimant).

The matter was submitted on March 22, 2007.

ISSUE

Should the regional center be required to pay the sum of \$300 per month toward claimant's living expenses?

FACTUAL FINDINGS

1. Claimant is an autistic, 31-year-old consumer of regional center services. He lives in a rented three-bedroom home with another regional center consumer and a second "roommate," who is a paid caregiver hired by regional center vendor Larry Phillips Agency (Phillips). The caregiver lives in the home's third bedroom and provides 24-hour supervision for claimant, who is "low-functioning" and essentially non-verbal.

2. Claimant lived previously in a group home. However, his negative and disruptive behaviors created the need to identify different living arrangements for

claimant. In November of 2001, following a WRC assessment, claimant was placed in his current, supported-living circumstances. Claimant is happy, well-adjusted and well-behaved in these circumstances.

3. Claimant receives \$836 per month in SSI benefits, which are his only source of income. One-third of the rent is \$630.85,¹ which leaves him \$205.15 to cover all other monthly expenses, including the costs of utilities and food. By the time his utilities are paid, claimant can not afford to feed himself, let alone go to a movie. As a consequence of this fiscal shortfall, the regional center agreed to supplement claimant's income by \$300 per month, which it paid from November 2001 until March 2006, when it terminated the payments on the ground that WRC does not "typically" pay rent or supplement the living expenses of consumers. The regional center contends that the agreement to make the payments was temporary in nature and the practice continued as long as it did only because of the lack of "follow-up" by a series of service coordinators.

4. Claimant's family was not told that the regional center stopped making the \$300 monthly payments or that they had been temporary at the outset. Apparently, after the payments stopped, Exceptional Children's Foundation (ECF), Phillips' predecessor agency, was paying claimant's share of the utilities. When Phillips took over for ECF in January 2007, that assistance ceased. Simultaneously, ECF asked claimant's parents to reimburse it for the expenditures it had made, which alerted the parents to their son's financial predicament. Although the parents had been paying for all of their son's clothes, furniture and some recreational opportunities, they were unaware that claimant's SSI income was not covering his rent, utilities and grocery needs. They now ask, on claimant's behalf, that the \$300 monthly allowance be reinstated and that the need for the allowance be re-evaluated in six months.

5. WRC cites no code, regulation or formal policy that prevents it from making the requested payments. No evidence was offered or argument made that claimant is not in need of the supplementary payments.

6. Although the claimant's Individual Program Plan (IPP) was not offered as evidence, it is assumed the plan provides for claimant's supported living arrangements as a means to achieve independence in the least restrictive environment.

LEGAL CONCLUSIONS

1. Regional centers are charged with the responsibility in this State for securing for the developmentally disabled all necessary services and supports that maximize opportunities and choices for living, working, learning and recreating in the community. (Welf. & Inst. Code, § 4640.7, subd. (a).)

¹ Phillips pays one-third of the rent, but does not contribute to the cost of utilities.

2. Welfare and Institutions Code, section 4512, subdivision (b), states, in part:

“Services and supports for persons with developmental disabilities” means specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability or toward the social, personal, physical or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, normal lives. The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer ... and shall include consideration of a range of service options proposed by individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option. Services and supports listed in the individual program plan may include, but are not limited to ... personal care, day care, domiciliary care, special living arrangements ... supported living arrangements, technical and financial assistance ...

3. Welfare and Institutions Code, section 4646, subdivision (a), states:

It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments. It is further the intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.

4. Welfare and Institutions Code, section 4649, declares: “[T]he Legislature places a high priority on providing opportunities for adults with developmental disabilities ... to live in homes that they own or lease with support available as often and for as long as it is needed, when that is the preferred objective in the individual program plan.” Subdivision (a)(2) of section 4649 provides: “The services or supports that a consumer receives shall change as his or her needs change without the consumer having to move elsewhere.”

5. Welfare and Institutions Code, section 4648, subdivision (a)(2), provides: “Services and supports shall be flexible and individually tailored to the consumer and, where appropriate, his or her family.” And “[w]here there are identified gaps in the system of services and supports or where there are identified consumers for whom no provider will provide services and supports contained in his or her individual program plan, the department [and by extension, the regional center] may provide the services and supports directly.” (Welf. & Inst. Code, § 4648, subd. (g).)

6. It cannot be denied that claimant’s most basic requirements are not being met. The Lanterman Act not only authorizes but mandates that the regional center provide for claimant’s needs for a stable and healthy environment, which necessarily involves the provision of shelter, basic utilities and food. If WRC cannot identify another, generic source for the funding, then it is the entity charged with that responsibility.

ORDER

WRC shall supplement claimant’s income in the sum of \$300 per month. This payment shall continue until it is determined, through the IPP process, that claimant’s basic needs for shelter, utilities and food may be met without such supplementary payments.

NOTICE

This is the final administrative decision and each party shall be bound by it. Either party may appeal the decision to a court of competent jurisdiction within 90 days of the receiving of notice of this decision.

DATED: April 3, 2007

TIMOTHY S. THOMAS
Administrative Law Judge
Office of Administrative Hearings

